IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HON'BLE THE CHIEF JUSTICE MR.V.K.BALI
&
THE HONOURABLE MR. JUSTICE S.SIRI JAGAN

FRIDAY, THE 8TH DECEMBER 2006 / 17TH AGRAHAYANA 1928

WA.No. 2282 of 2006()

AGAINST JUDGMENT DATED 13.3.2006 IN O.P.NO.16957/2002

APPELLANTS: RESPONDENTS 3 & 4:
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1. THE DIRECTOR OF POSTAL SERVICES,
SOUTHERN REGION, THIRUVANANTHAPURAM.

2. THE SENIOR SUPERINTENDENT OF
POST OFFICES, THRISSUR DIVISION, THRISSUR.

BY ADV. SRI.JOHN VARGHESE, ASSISTANT SG

RESPONDENTS: PETITIONER & RESPONDENTS NOS.1 & 2:
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1. SRI.K.K.SANKARAN, S/O.KOTHA,
KUZHIPPILLY HOUSE, CHITTILAPPILLY P.O.,
THRISSUR DISTRICT.

2. THE DISTRICT COLLECTOR, THRISSUR.

3. THE TAHSILDAR (R.R), THRISSUR.

R2 & R3 BY GOVERNMENT PLEADER MR.T.B.HOOD

THIS WRIT APPEAL HAVING COME UP FOR ADMISSION ON 08/12/2006, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

V.K. BALI, C.J. & S.SIRI JAGAN, J.

W.A.No.2282 of 2006 &
C.M.Appln.No.1243 of 2006

Dated, this the 8th day of December, 2006

JUDGMENT

V.K.Bali,C.J.(Oral)

Delay condoned.

2. The challenge in the present writ appeal is to order dated 13th March, 2006 recorded by the learned Single Judge in O.P.No.16957 of 2002. The petitioner in the original lis challenged the recovery proceedings Ext.P3 which pertained to an amount of Rs.32,125.10. Broadly, the facts on which the relief was sought to rest, reveal that an amount of Rs.91,986.60 was misappropriated by the postmaster who later committed suicide. The petitioner had also some hand in the misappropriation. He was suspended, but later re-inducted into service and continued his service till the date of his superannuation. Proceedings for recovery were initiated against the petitioner only and an amount of Rs.63,000/- was recovered from him. In

the wake of the facts and circumstances as detailed above, the petitioner urged before the learned Single Judge that the principal offender against whom charges were framed was the postmaster and not the petitioner. In any case, even if the petitioner also may be held responsible and involved in the incident, he was re-inducted into service as mentioned above, he could not be asked to make the entire payment of the misappropriated amount. The learned Single Judge accepted this contention and allowed the relief. It may be once again mentioned that the petitioner has already paid an amount of Rs.63,000/- out of Rs.91,986.60 stated to have been misappropriated. Even though the postmaster, the principal offender, died, it was always open to the Department to make recovery of the amount from his post retiral dues. It is not disputed during the course of arguments that the postmaster had some post retiral dues and it was open to the appellants to make recovery from the said amount.

3. In totality of the facts and circumstances of the case, it

appears that the learned Single Judge was right in observing that the petitioner alone cannot be made to pay the entire amount.

There is no merit in the writ appeal, which is hereby dismissed.

V.K. BALI,
CHIEF JUSTICE.

S.SIRI JAGAN,
JUDGE.

vns